

Alabama Credit Union Administration

Regulations

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Section 1. Organization Of A State Chartered Credit Union

Organization

Section 5-17-2 of the Alabama Code states “Any seven residents of the State of Alabama may apply to the Administrator of the Alabama Credit Union Administration for permission to organize a credit union.”

In order to demonstrate a viable future for a proposed credit union, there should be a field of membership of not less than 500 potential members. These persons must show an interest and ability to support the proposed credit union including sponsor furnished quarters, data processing, volunteer management, etc. Sponsor subsidizes and voluntary management must continue until the credit union is able to sustain its own operations.

Field Of Membership Expansion

Any credit union may apply to include employee or association groups in its field of membership provided that the Administrator of the Alabama Credit Union Administration ascertains that the number of employees or association members is within the regulation, and the group is located in a well-defined area near the credit union's main office or branch as defined in this regulation. The credit union must also have amended its bylaws to allow including such groups in its field of membership. Approval will not be granted if the group is being served by another state or federal credit union. Unless the application for chartering contains a letter from the other credit union stating that it has no objection to dual membership or it is shown that the other credit union is not providing satisfactory service. If the other credit union is a federal credit union, the Administrator will contact the NCUA Regional Director for comment prior to approving dual membership unless it is deemed that no adverse effects will result from the dual membership.

When requesting field of membership expansion, the credit union is to submit the following information:

- (1) Name of the group to be added.
- (2) A description of what constitutes membership in the group.
- (3) Location of the group's employer or association including.
 - (a) Physical location and mailing address.

- (b) County in which the group is located.
- (4) Location of the credit union office or branch from which the group will be served.
- (5) The number of employees or association members within the group.
- (6) A letter from a person with authority to represent the group, requesting services from the credit union, also stating whether the group is being served by another Alabama credit union and if so, the name of said credit union. The letter is to be written on the group's letterhead stationery. The person signing the letter is to identify himself or herself by title and state that he or she has authority to represent the company or association.
- (7) A statement concerning the availability of payroll deduction privileges.
- (8) If the group is being served by another credit union, a letter from an authorized representative of that credit union stating that it does not object to dual membership.

Note: Forms are available from the ACUA office.

Definitions

Minimum Size Group

- If employee Group, 2 individuals
- If association Group, 2 individuals
- if employee group is closely related to the credit union's primary field of membership, as stated in the credit union's bylaws, no minimum.

Eligible Association Group

Associations whose activities reflect common loyalties, mutual benefits, and mutual interests and employees of such association members. To be eligible, the association should hold regular membership meetings or it should sponsor other activities that provide for contact among members. This regulation may not be interpreted so broadly to include association groups or individuals solely on the basis of common goals, causes or objectives.

Membership is limited to real persons. Business entities are not eligible for membership, but employees of such member entities are eligible.

Well-Defined Area

The same county and counties contiguous to the county in which the main office or a branch office of the credit union is located.

Branch

A facility operated by one or more full-time credit union employees at which members may deposit and withdraw funds and apply for loans.

Section 2. Loans

Loan Policies

Alabama state chartered credit unions are required to have written loan policies which specify, as a minimum, the following for each type loan offered:

1. Collateral requirements: loan to value parameters
2. Maximum loan amount
3. Maximum maturity limit
4. Interest rate or basis

Limits may also be established for the total indebtedness to be allowed one member or a group of closely related members. This limit may be expressed as a dollar amount, percentage of assets or percentage of equity capital (total capital minus allowance for loan loss account).

Other limits which should be addressed in the credit union policies include maximum amounts (as a percentage of assets) to be allowed in long-term real estate loans or construction loans: maximum unsecured loans to a member and any other limits desired by the board of directors.

Participation Loans

Alabama law does not directly address participation loans. Section 5-17-4(a) of the Alabama Code, which lists powers of credit unions, only authorizes credit unions to make loans to:

- (1) Members
- (2) Other credit unions
- (3) A cooperative society or other organizations having membership in the credit union.

Therefore, an Alabama state chartered credit union may not purchase a loan from another credit union according to this section unless the loan was made to an individual, group of individuals or organization which is a member of the purchasing credit union. However, part (b) of Section 5-17-4 expands the powers of Alabama credit unions to engage in activities in which they could engage if they were operating as a federally chartered credit union. Section 107 of Title I of the Federal Credit Union Act authorizes federal credit unions to participate with other credit unions, credit union organizations or financial organizations in making loans to credit union members in accordance with the following:

“Participation loans with other credit unions, credit union organizations, or financial organizations shall be in accordance with written policies of the board of directors. Provided, that a credit union which originates a loan for which participation arrangements are made in accordance with this subsection shall retain an interest of at least 10 percentum of the face amount of the loan.”

Alabama state chartered credit unions may engage in participation loans in accordance with the above conditions and subject to the following restrictions:

- (1) Prior written permission must be obtained from the Administrator, Alabama Credit Union Administration for credit unions to extend participation loans among credit unions and between credit unions and other financial organizations.
- (2) The originating credit union may only make loans to its own members.
- (3) All participation loans are to be sold without recourse to the originating credit union.
- (4) The originating credit union will service the loan: it may charge the purchasing credit union a reasonable service fee, but all loan payments, principal and interest, will be equally prorated among the participants in proportion to their ownership interest in the loans: and,
- (5) A credit union may sell loan participations to any financial organization, but a credit union may not purchase a participation in a loan originated by any financial organization other than another credit union.

Business Loans

Section 741.3 of the NCUA Rules and Regulations requires that Section 701.21(h) of the Regulation, relating to member business loans, be adhered to by federally insured

state chartered credit unions. Therefore, all Alabama credit unions are regulated in accordance with the provisions of 701.21(h) AND each credit union must adopt a policy which conforms to the regulation and this policy must receive the approval of the Administrator of the Alabama Credit Union Administration.

Section 3. Investments

The Board of Directors of each Alabama state chartered credit union shall establish written investment policies consistent with the applicable provisions of the Alabama Credit Union Act, NCUA's Rules and Regulations, and other applicable laws and regulations. Policies should be reviewed and modified as required; not less frequently than annually.

At a minimum, the written policy shall address the following:

- (a) Purposes and objectives of the credit union's investment activities, including a statement whether securities purchased are categorized as (1) hold to maturity,(2) available for sale, or (3) trading securities;
- (b) Persons or committees to whom investment authority has been delegated and the extent of their authority;
- (c) Limits on the amount of funds that may be committed to any particular investments or securities transaction;
- (d) Maturity limits;
- (e) Interest rate risk (as applicable);
- (f) Credit risk (as applicable);
- (g) Securities dealers/brokerage firms approved for use by the Board of Directors together with any limitations that the board has established with respect to the amount of funds that may be placed or invested with any of the approved broker/dealers (as applicable); and,
- (h) Safekeeping of securities, including a list of safekeeping facilities approved by the credit union's Board of Directors.

Section 4. Reserves

Section 5-17-19 of the Alabama Code provides that Alabama Credit Unions maintain such regular reserves as are required to maintain insurance of member accounts under the provisions of Title II of the Federal Credit Union Act. This regulation also authorizes the Administrator of the Alabama Credit Union Administration to require additional reserves.

For the purpose of computing reserve transfers, risk assets for Alabama state chartered credit unions are defined as follows:

Total loans to members plus investments with maturities in excess of three years which are not valued at the lower of cost or market.

Section 5. Supervisory Committee

Section 5-17-13 of the Alabama Code provides the powers and duties of the Supervisory Committee. In addition to these provisions of law, the following is added to supplement and clarify Section 5-17-13.

- (A) Any outside auditor hired to perform the annual audit must provide evidence of liability insurance in an amount not less than \$1,000,000.
- (B) An audit by a CPA may be required when any of the following conditions exist
 - 1. Persistent recordkeeping problems.
 - 2. The supervisory committee did not perform an audit.
 - 3. The audit did not meet minimum standards.

Section 6. Share Insurance

I. Prequalifications

- A. No corporation shall guarantee to a credit union payment of an individual members' account or otherwise issue or effect credit union share guaranty insurance until that corporation is approved by the Administrator. Before submitting an application to the Administrator for approval, the applicant credit union share guaranty corporation must first satisfy the following prerequisites:
 - 1. The applicant must be licensed and authorized to provide credit union share guaranty in its state of domicile or in the State of Alabama. In the

case of a foreign corporation, the articles of incorporation, and any amendments thereto, must be filed with and approved by the State of Alabama;

2. the applicant must provide evidence that it is in compliance with the laws of its state of domicile;
3. the applicant has capital deposits in a principal sum of no less than \$5,000,000;
4. the applicant submits an opinion audit by a certified public accountant verified by the oath of the president and secretary of the corporation, which demonstrates the corporation's compliance with generally accepted accounting principles, and provides independent evidence as to the adequacy of reserves.

II. Application

- A. No corporation shall guarantee to a credit union payment of a credit union share account of an individual member of a credit union or otherwise issue or effect credit union share guaranty insurance until that corporation is approved by the Administrator;
- B. All applications sent to the Administrator's office must be accompanied by a filing fee in the amount of \$5,000;
- C. Only completed applications will be given the full consideration of the Administrator. A "completed" application manifests a strict compliance with all of the aforementioned prequalifications, and is accompanied by the \$5,000 filing fee.
- D. In addition to the prequalification criteria set forth above, the Administrator may scrutinize such other applicant information as he deems appropriate; including, but not limited to, shown expertise in insuring financial institutions;
- E. The Administrator shall approve or disapprove the application under this section by written order issued within one hundred and eighty (180) days of receipt of the application.
 1. The Administrator shall have the right to examine the books and records of the credit union share guaranty corporation as part of the approval

process. The corporation shall be assessed the reasonable costs of such an examination. Such examination fee may include the costs of engaging professionals to satisfactorily perform and complete the examination.

2. In disapproving an application, the Administrator may not act in an arbitrary or capricious manner or fail to comply with applicable laws.
3. If the Administrator disapproves an application, good cause must be shown for such disapproval.

III. Powers And Duties

In carrying out its general purposes, a credit union share guaranty corporation may:

- A. guarantee to participating credit unions the payment of any deficiency in an individual member's credit union share account(s) caused by insolvency or any other reason;
- B. issue credit share guaranty insurance policies or otherwise effect credit union share guaranty, and enter into other contracts necessary or advisable in the conduct of its business;
- C. advance funds in accordance with agreed upon lending terms and conditions to aid participating credit unions to operate and to meet liquidity needs;
- D. upon the written order of the Administrator of credit unions, and at such compensation as shall be agreed upon, the corporation may assume control of the property and business of any participating credit union and operate it at the direction of the Administrator until its financial stability has been reestablished to the satisfaction of the Administrator, or the credit union has been liquidated or merged into another credit union.
- E. assist in the merger, consolidation, or liquidation of participating credit unions;
- F. purchase or otherwise acquire, lease as lessee, invest in, hold, use, lease as lessor, encumber, sell, exchange, assign, mortgage, transfer, and disposes of property of any description or any interest therein;
- G. borrow money, and issue, sell, and pledge its notes, bonds, and other evidence or indebtedness, and secure any of its obligations by mortgage,

pledge, or deed of trust of all or any of its property, and guarantee or secure obligations of participating credit unions;

- H. receive money or other property from its participating credit union, or any person(s);
- I. conduct investigations, examinations, and audits of any applicant or participating credit union in order to determine the financial and operations condition of the applicant or participating credit union;
- J. establish conditions for participation by credit unions, including the establishment or risk eligibility standards.

IV. Operation Of A Credit Union Share Guaranty Corporation

- A. In order to permit the credit union share guaranty corporation to assess the financial condition and performance of a credit union, the Administrator shall provide to the corporation any and all reports of examination conducted by, and orders and notices issued by, the Administrator regarding any participating credit union under the supervision of the Administrator.
- B. Each credit union share account of an individual member of a participating credit union shall be guaranteed in amounts established from time to time by the credit union share guaranty corporation. Such primary guaranteed amount shall not be less than the amount of the credit union share account and in no event less than that provided by the NCUA.
- C. In addition to the primary guaranteed amount, the corporation may establish an excess coverage guarantee for the benefit of those participating credit unions that voluntarily elect to obtain such additional guarantee.
- D. The amount of the deposit account of each participating credit union, as required under the credit union share guaranty corporation's insurance policy, shall be carried on the books of the participating credit union as an asset.
- E. The credit union share guaranty corporation shall have a written contract with all participating credit unions further establishing the right and obligations of the parties.
- F. The credit union share guaranty corporation shall provide written notice to the Administrator of receipt of any application for participation by an

Alabama state chartered credit union, and the corporation's underwriting decision, and in addition, the corporation shall also provide notice of any termination, voluntary or involuntary, as well as participation by any Alabama state chartered credit union.

V. Reporting

- A. A credit union share guaranty corporation shall file with the Administrator an annual report containing audited financial statements, prepared in accordance with generally accepted accounting principles by a certified public accountant, covering the fiscal year within one hundred days after the close of such fiscal year. The audited financial statements shall include at least a balance sheet and a statement of income and expenses for the year ended on the balance sheet date. The report and audited financial statements shall be accompanied by a report, certificate, or opinion of an independent certified public accountant or independent public accountant. Every such report shall be certified by the oath of the president and secretary of the corporation, and such verification shall state that the report is true and correct in all respects to the best of the knowledge and belief of the persons verifying.
- B. The Administrator shall have the right to examine the books and records of the credit union share guaranty corporation at his discretion. The corporation shall be assessed the reasonable costs of such an examination.
 - 1. Such examination fee may include the costs of engaging professionals to satisfactorily perform and complete the examination.
 - 2. In addition to any examination fees assessed by the Administrator, each approved credit union share guaranty corporation must proffer an annual processing fee to the Administrator in the amount of \$5,000.
- C. The credit union share guaranty corporation shall notify the Administrator of any modifications or amendments to its contract with participating credit unions, including the risk eligibility standards, with its Alabama state chartered, participating credit unions prior to the effective date of such modification or amendment.
- D. The credit union share guaranty corporation shall provide copies to the Administrator of any report of examinations conducted by the corporation of Alabama state chartered, participating credit unions.

VI. Special Provision

- A. Nothing herein contained in the regulation inhibits the Administrator from promulgating special requirements for credit unions whose shares are insured by a private credit union share guaranty insurer.

6.1 Non-Federal Share Insurance Qualification Requirements for Credit Unions

Under the provisions of Section 5-17-19(d) of the Code of Alabama, 1975, as amended, the administrator of the Alabama Credit Union Administration is vested with the authority to permit insurance coverage of member accounts other than the National Credit Union Share Insurance Fund, the federal insurance program. The authority to permit alternative insurance rests solely with the administrator and will be granted only when certain minimum standards of financial safety and soundness are maintained by the credit union. These minimum standards for each area of the CAMEL evaluation are as follows:

Capital Adequacy

Total Capital/Assets	6.25%
Net Capital/Assets	6.00%

Asset Quality (1)

Delinquent Loans/Total Loan	1.75%
Net loan losses/Average Assets	0.75%

Management

Adequate written policies must be in effect covering loans, investments, Bank Secrecy Act, collections, and ALM.

Earnings (2)

Net Income/Average Assets	1.00%
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Liquidity or Asset Liability Management (3)

Cash + short term investments/Total member savings 10.00%

ALM - refer to management section

(1) Variances may be allowed up to 0.2% for each 1.0% capital exceeds minimum standards.

(2) Variances may be allowed up to 0.1% for each 1.0% capital exceeds minimum standards.

(3) Variances may be allowed when an adequate cash management policy which addresses actions to be followed in periods of very low liquidity and an approved line of credit sufficient to ensure continued operations are on hand.

Nothing in this regulation or the Code of Alabama should be construed as limiting the discretionary authority of the administrator in permitting or not permitting any credit union to elect alternative insurance.